Mr. A. V. Moothedan *(Chalakkudi):* In view of the Diwan Peishkar's explanation, I don't press.

The Cochin Christian Succession Act (Amendment) Bill

Mr. A. V. Moothedan *(Chalakkudi):* I move that the Cochin Christian Succession Act (Amendment) Bill be read in Council.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* I second it.

Mr. A. V. Moothedan *(Chalakkudi):* Sir, according to the Act which is in force now in Cochin State, a daughter is entitled to ⅓ share of a son, in case a father dies intestate. That enactment was passed after enquiry was made by the Government in 1095. I shall briefly refer to the history of the present legislation. In 1095, Government appointed a Committee known as the Christian Succession Bill Enquiry Committee. The members of the Committee were Justice Mr. P. I. Varughese, Messrs. M. A. Chakko, Joseph Thaliath, Barrister, V. D. Ouseph, Rev. Fr. Nelavarath, Mr. N. O. Inasu and Mr. P. C. Varkey. The Chairman of the Committee was Justice Mr. P. I. Varughese. The Committee made a report after examination of the whole question, and a draft Bill was also prepared. That Bill was accepted by the Government and we have got the Christian Succession Act today. Now, added to that report there is a dissenting minute by a minority of the members of the Committee, *i.e.*, Messrs. P. I. Varughese, V. D. Ouseph and Fr. Nelavarath to the effect that daughters should be given equal share with the son.

(At this stage some of the members were found conversing each other causing disturbance to the House).

Panel Chairman: Those who are not interested will at least see that those who are interested are not disturbed.

Mr. A. V. Moothedan *(Chalakkudi):* Now, Sir, the dissenting minute was by three members and it was to the effect that equal shares should be given to sons and daughters, if a father dies intestate. Because it was a minority suggestion the Government did not accept it. Now my Bill is to give effect to the suggestion contained in the dissenting note written by those gentlemen some 20 years back. In fact when I sent this Bill for introduction here, I did not see the Christian Succession Bill drafted by the Committee. Afterwards, when I made enquiries I got into touch with all this literature in my favour. Now I shall briefly refer to the controversy regarding equal share etc. Till the year 1097 the law applicable to Cochin State was the Indian Succession Act of British India. According to that Act a daughter and a son are entitled to equal share and there are decisions in our High Court also giving equal shares. When this Act came into force the share of a daughter was reduced to 1/3. What I want now is to return to the old times *i.e.* before

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1097. I should say even 20 years before there was a strong opinion in favour of giving equal share to the daughters. Page 15 of their report states that they examined several witnesses on the subject. Fifty-nine witnesses gave evidence to the effect that daughters should be given equal share, 32 witnesses gave evidence that half the share of a son should be given, and 173 witnesses gave evidence that daughters should be given 1/4 of the son's share. The Committee adopted a *via media* and recommended that 1/3 share of a son should be given when a father dies intestate, and the Government accepted the committee report.

I shall now read before the House the evidence given by one Lady Member who strongly advocated that daughters should be given equal share. She is Mrs. Francis, a Lady Doctor. She says.—

"Daughters being equally the children of the parents with sons, a custom that prescribes a smaller share to them than to sons in the Estate of the parents should not be supported by any legal enactment, unless it is clearly shown that the practice does not actually result in injustice to the daughters. To show that no injustice results the advocates of the custom argue that while it (the custom) prescribes to the female a smaller share than would be her portion if the division were equal, it (the custom) at the same time compensates, Sir, for this shortness, by giving to her husband with regard to the estate of his parents a larger share than would belong to him if the division were equal....." and so on.

Twenty year's ago she advocated this cause with great enthusiasm and I am glad to find even now she is as enthusiastic as before.

Now seeing that I have tabled a Bill, she has written to me a long letter saying that she has not changed her views and that she still holds the same opinion she had 20 years ago.

She writes to me as follows.—

Dear Mr. Muthedan,

I am highly gratified to find that, by your Christian Succession Act (Amendment) Bill you are trying to give legal recognition to the views expressed by me about 20 years back regarding the share of a daughter in the matter of an intestate succession. I would, in this connection, refer you to my statement before the Cochin Christian Succession Bill Committee published in paras 21 to 22 on pages IV—VI of Appendix B of the said Committee Report.

Even though 20 years has elapsed, since I gave my statement before the Committee, I still maintain the self-same view, perhaps with stronger conviction as the 20 years' experience has only confirmed me all the more in my belief that a daughter has a right

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to rank equally with a son in claiming their father's or mother's property. My arguments in that statement hold good even to the present day and I cannot find any way to agree with the Committee in saying that "It needs hardly be said that with testamentary liberty it is not a very serious matter for the Christian subject what law of inheritance is enacted by the State". If that were the case the State could very well have refrained from making such an enactment....etc.

I, therefore, on behalf of the Christian women of Cochin, would strongly recommend your amendment in the earrest belief that your colleagues in the Council will do their utmost in co-operating with you to get this Bill passed into law.

This is what Mrs. Francis, who advocated so strongly 20 years ago, writes to me now. Regarding the opinion of women on the subject, I shall refer to resolutions passed by the Women's Associations. There is an association in Ernakulam, called Ernakulam Women's Association and the President of that Association is, I think, Sreemathi Lekshmikutty Naithyaramma, and that Association has passed a resolution to the effect that daughters should be given equal share with sons. Then there was a meeting at Trichur recently—a branch meeting of the All India Women's Association held under Mrs. K. M. George. There also a resolution passed to the effect. That was resolution No. 4. It is as follows.—"ക്രിസ്ത്യ സ്ത്രീകൾക്കു പിതാക്കന്മാരുടെ സ്വത്തിൽ പുരുഷന്മാരൊടൊപ്പം വീതം നൽകുന്നതായ ഒരു നിയമനിർമ്മാണം ചെയ്യുന്നതിനു ഗവൺമെണ്ടിനൊട് ശുപാർശ ചെയ്യുന്നു." (See *Malabar Mail* dated 22—3—1116)

There is an organization here known as the Ernakulam Catholic Women's Club. They have supported this view. The President of this Club is Mrs. Francis. There is here one Association known as the Catholic Women's Association. President of that Association is Mrs. Manjooran, wife of Justice Mr. Manjooran. At a meeting of this Catholic Women's Association, Miss T. K. Kunjalia the first Lady lawyer from our community in Cochin, warmly supported this Bill.

Mr. M. K. Devassy *(Adur):* Have you made private enquiries?

Mr. A. V. Moothedan *(Chalakkudi):* I don't make private enquiries *(laughter)*.

Coming to individuals, to the best of my knowledge, no lady has told me that she opposes this measures. On the other hand, several ladies whom I consulted supported this Bill. For instance, Mrs. Raphael, who is considered to have much influence and position

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in the women circle supports the idea. However, I have not come across any woman who is opposing it.

Mr. V. J. Mathai *(Planters):* What about men?

Mr. A. V. Moothedan *(Chalakkudi):* Of course, some men will never support this. Mrs. Tharian, I did not meet her, I think she favours the idea. Since she is the Vice-President of the Ladies Association here, the resolution passed by that Association is binding upon her.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* What about your wife?

Mr. A. V. Moothedan *(Chalakkudi):* Of course, she has no objection.

Under these circumstances, I think, there is no objection for giving equal share to women. According to law of Christians, a father has got absolute right to will away his property according to his desire. Therefore, what is the difficulty if this Bill is passed? If he is not willing to give anything to his daughter let him will away the property. This Bill is intended to apply to future cases of intestate succession. Therefore every precaution is taken in framing this Bill. The passing of this Bill will be an inducement to people to write wills, if they so desire.

Dr. A. R. Menon *(Minister for Rural Development):* Can't they write a will even without this Bill being got passed?

Mr. A. V. Moothedan *(Chalakkudi):* Yes. So the effect of this Bill will not be very far-reaching at all, because it can be nullified by a will. Therefore, under these circumstances, I would respectfully submit that this amendment to the Christian law may be accepted by the Council.

Mr. K. R. Viswambharan *(Ezhuvas-Talappalli):* I second Mr. Moothedan's motion.

Mr. M. K. Devassy *(Adur):* Sir, I oppose this Bill. I am extremely sorry that my friend Mr. Moothedan who is always known here as the champion of the poor, as the champion of the agriculturists, as the champion of the labourers, has now become the champion of the women *(Laughter)* of our community. It is certainly consistent with the broad mentality of my hon'ble friend. But sometimes generosity of vision is coloured by want of proper wisdom, and I doubt very much whether this Bill can have the support of the community which is going to be affected by it. In the first place, this Bill, as has been correctly pointed out by my learned friend, has no sanction behind it. It only applies to intestate succession. There is a good deal of difference between the

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conception of property according to Hindu law and according to Christian Law. In Hindu families there is the conception of ancestral property. There is impossibility of any member to alienate either by will or assignment ancestral property and therefore when a law declares that a certain share should be given to a particular individual that law will hold good. That has sanction behind it. But so far as the Christian law is concerned the idea of having a law which will bind a certain person to bequeath certain item of property to any individual is also foreign to our law. Therefore, the question is, when you want to favour the Christian daughters by legislation, should you do it in such a way as to compel the father to disinherit his daughter by a will?

Dr. A. R. Menon *(Minister for Rural Development):* If a father has got 3 sons, what is the procedure? Is he compelled to divide into three?

Mr. M. K. Devassy *(Adur):* According to our law anybody who has got property is at perfect liberty to alienate or to deal with the property in any manner he likes, whether by leaving a will or by assignment. Nothing compels him to deal with the property in any particular manner. So that if I am a Christian father and if I think I should give to my daughter half the share of my son, what will be her position if such a law is passed? Naturally the compulsion under the Law will be revolting to the father, and the father will be doubly careful to see that she is conveniently disinherited so that after his death no complication arises. Therefore, my preliminary submission is that the very object of my hon'ble friend will be defeated and instead of doing some good to the Christian daughters whose case is now taken up, it will be doing positive harm to them.

Dr. A. R. Menon *(Minister for Rural Development):* Does it apply only to self-earned property?

Panel Chairman: There is no difference of property. Both ancestral and self-earned have to be divided.

Mr. M. K. Devassy *(Adur):* Now, assuming that there are a set of people who have unfortunately forgotten to leave a will and a set of properties of these people are to be governed by this particular Bill, what would be the position? It is no secret that in a Christian family the son is the hope of the family. It is not a secret that the rise or decline of Christian family depends on the rise and decline of the sons of the family; it is no secret that a Christian father will always see that the family prestige is kept up through his sons. Therefore, how can you possibly compel such a person who always wants to see that the prestige of the family is kept up through his

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sons, to remain silent in his death without leaving a will and to be guided by a law which is opposed to his own sentiments? If at all you want to give these daughters a share what should be that share? The most recent legislation defining the rights of daughters, I should say, is the Thiyya Act passed recently by this House. Even that Act does not go to the extent of giving them equal share. It gives only half share to the daughter. Time may come when daughters get over sons. I don't dispute that. The society is not now for it. It will be doing only positive harm to the daughters instead of doing any good. While I oppose this Bill in case if the motion is passed by this Council, I should say, it is proper that the Bill should go for the opinion of the members of the community and should be circulated. Of course, I will move for that at the proper time.

Mr. V. J. Mathai *(Planters):* I, on my part, am surprised to know that the leader of the Progressive Party is so retrograde as to oppose such a progressive measure, because, what is the difference between women and men so far as the need for property is concerned?

Mr. M. K. Devassy *(Adur):* I have realised it much longer than you. *(Laughter).*

Mr. V. J. Mathai *(Planters):* A woman wants money just as men want money. Let men and women share alike. That seems to be the most progressive view. If man wants food and dress, women also equally want dress and food. If men want medical treatment, women also want the same. I would even say that a woman wants more than a man because she is the weaker of the two. Therefore, the most progressive view so far as this question is concerned is that you should give women at least an equal right in their father's property along with her brothers. That seems to be the only sane view, looking it from a progressive civilised point. Under the Indian Succession Act which governs the Christians in India who are not governed by any particular statutes, the law is that the sister gets an equal share with the brother. Not only the Anglo-Indians, but all Christians in India, except those who are governed by particular statutes like the Christian Succession Bill here, share equally with their brothers.

Mr. M. K. Devassy *(Adur):* What about Travancore?

Mr. V. J. Mathai *(Planters):* Travancore is not a bigger example than British India.

Taking the other civilised Christian countries like England and America, we find that women share alike with the brothers. Now, that seems to be the only view upon this question. Mr. Devassy raised some specious arguments in support of his retrograde position.

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The argument in support was that the father can easily defeat the daughter by executing a will. That he can do even today.

Mr. M. K. Devassy *(Adur):* I say, you are compelling the father to do it by this legislation.

Mr. V. J. Mathai *(Planters):* How? Certainly not. The Hon'ble Member for Adur wants to bring this question appear ridiculous by saying that the father will be compelled to execute a will. Even if you are compelling him to execute a will, I say, it is better for all children since it will clearly decide the relation between the sons and the daughters. If you are compelling him to do so, it is better. But, as a matter of fact, we find that the Christian daughters are getting *Sthreedhanam.* When they are being given *Sthreedhanam,* naturally their husbands' people are satisfied already. Then the father will have absolutely no difficulty.

Dr. A. R. Menon *(Minister for Rural Development):* Is this ⅓ inclusive of the *Sthreedhanam?*

Panel Chairman: If *Sthreedhanam* is already paid, then the daughter is no more entitled to the share of the property of the father. This ⅓ applies only to cases where the daughter has not received any *Sthreedhanam* during the life time of the father.

Mr. V. J. Mathai *(Planters):* If *Sthreedhanam* is paid, the husband's people are already satisfied Therefore, the father has absolutely no difficulty in leaving a will, because his daughter has received such and such an amount as *Sthreedhanam* and therefore, I say, there is no delicacy in leaving a will. Further, in the case of married daughters, *Sthreedhanam* is already given. But what about the case of unmarried daughters? What is the justice in denying them equal share with their brothers? Unmarried daughters require money far more than a son or married daughter. If, for example, a father has got only Rs. 4,000 worth of property, the son gets Rs. 3,000 and the daughter gets only Rs. 1,000. What is the justification? . From this you will find that the daughter will be unable to get a proper husband for want of money.

Then the last argument was that the father would like to have the glory of the family maintained by his sons. After all, what do you mean by the glory of the family? Sons do not always perpetuate the glory of the family. A few hard-working, honest and diligent men, possibly enhance the status of the family. Most of the others do not. Therefore, it is no argument that the father should satisfy his vanity of glory even after he is dead. On the other hand, the unmarried daughter requires all help in getting settled in life. Under the circumstances, I should think that a daughter is entitled to an equal share with the son.

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Mr. M. K. Devassy *(Adur):* I will just clear a few doubts. Section 21 is, "for the purpose of determining the share of women, etc., the amount of *Sthreedhanam* or it value on the date of intestacy if it was not money shall be brought in and shall be divided along with other properties."

Panel Chairman: In the Act there is another section according to which if dowry is already paid during the life-time of the father by the father, she is not to be given any share under the Act.

Mr. M. L. Joseph *(Latin Christians-Cranganur):* And her release also must be taken.

Panel Chairman: No such thing is necessary. There cannot be any question of share during the life time of the father. Suppose *Sthreedhanam* is given during the life time of the father. Then there is no more claim for a share on the father's death.

Dr. A. R. Menon *(Minister for Rural Development):* Would the *Sthreedhanam* be equal to $\frac{1}{3}$?

Panel Chairman: When the Committee considered this question they might have thought that $\frac{1}{3}$ of the share would be more or less equal to what the father would have given as *Sthreedhanam*, if he were living.

Dr. A. R. Menon *(Minister for Rural Development):* Is there any corresponding law in Travancore?

Mr. A. V. Moothedan *(Chalakkudi):* There is. The maximum there is fixed to Rs. 5,000.

Panel Chairman: It was considered to be more or less equal to the amount which the father would have paid if the father was living. If the father died leaving unmarried daughters without any provision the brothers should not be in a position to say, "we won't give you any *Sthreedhanam*" and leave them adrift.

***Dr. A. R. Menon** *(Minister for Rural Development):* Sir, in my individual capacity, I rise to support this Bill. The House will clearly understand that it is repugnant to the feelings of any Nayar to oppose a measure which is intended to give equal shares to the sons and the daughters. At the time of the Ezhuva Bill it was only the conjoint and persistent persuasion of the Ezhuva members of this House, to go with the leaders of the Ezhuvas that we should not press for equal share, that we desisted from doing so. The reason that they gave us was that that proposition had even a chance of being thrown out, and therefore, we should not offer opposition at that time. But we made reservation, even then that in case

* Speech not corrected by the hon'ble member

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another Amendment Bill comes to this House giving equal share to the son and the daughter we will hold ourselves free to support such a measure. It is only on this ground that it is brought up in an atmosphere where men and women are treated absolutely equal from a financial point of view. I find, in spite of the cogent arguments advanced by my Hon'ble Friend, Mr. Devassy, that somehow or other my sentiments run with Mr. Moothedan's Bill. I have considered this question—and whether you call it *Sthreedhanam* or by any other name—when it is willed down, it comes to this. Accident of birth deprives one ⅔ of what is due to her and though it is stated that by law that property may be distributed according to the father's desire, the same applies even if the full share is given to the daughter, and the father can reduce it by half or ⅓ or anything he pleases. This Bill becomes operative only in cases where the father has not left a will. And the majority of our people, either through carelessness or something else, especially lawyers who always draft these wills for others and do not do the same for themselves, may leave the property without a proper will. In such cases, this Bill becomes operative. I do hope that the time has passed when we should make differentiation between the men and women in the matters of this nature. India has passed that stage. We are clamouring and we are helping them in their contention that they should be treated as absolute equals with men. At such a time the progressive view about these matters should be that women should at least be seated on the same footing as men. The matter becomes all the more serious when this applies mainly to unmarried girls, who are left orphans by the death of their parents, and there is no husband to look after her or on whom they can look for support. The obligation becomes all the more serious considering their position, considering their difficulty to get on in this world singlehanded, and if you are going to deprive them even of the legitimate share they are entitled as the daughters of their parents, then, I think, it is really a very hard case. I can only speak as an outsider and following the tradition established in this House. If all of you were agreed on this topic, I would have kept quiet; but, as I see, there is difference of opinion among the Christian members. Therefore, Sir, I thought I am entitled to have my own say about this matter. I believe, this question must receive the earnest consideration, and it would not at all be out of place to circulate the Bill, so that we may understand the general consensus of opinion. As my Hon'ble Friend, Mr. Moothedan, truly observed, there won't be any woman, unless she is a mad one, who will oppose this measure, and, I believe, there will be only very few men who will support this measure. As things stand at present, by circulation, we would be able to know

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the strength of feeling against this measure, and if by any chance there is a feeling which is more tolerant than it was a few years ago, when this Bill was enacted then, this House has to solve this problem and give relief to the women. This has been the attitude of this House in all such legislation, and unless you all join together and say that conditions are such that these measures would not be pressed, we hold we have no right to discuss upon a measure of this kind. I hope, the suggestion will be accepted by the mover himself and I support it.

മിസ്റ്റർ ബി. എം. പീറ്റർ: മിസ്റ്റർ മൂത്തേടൻ ഇവിടെ കൊണ്ടുവന്നിട്ടുള്ള എല്ലാ ബില്ലുകളേയും ഞാൻ അനുകൂലിച്ചിരിക്കെ ഈ ബില്ലിനെ മാത്രം എതിർക്കേണ്ടിവന്നതിൽ വളരെ വ്യസനിക്കുന്നു. ക്രിസ്ത്യാനികളുടെയിടയിലുള്ള മുറയും ആചാരവും നടപടിയുമെല്ലാം കണക്കാക്കിയാണ് ഇതിനുമുമ്പ് ഇവിടെ ഒരു ബിൽ പാസ്സാക്കിട്ടുള്ളത്. ബ്രാഹ്മണരുടെയിടയിൽ അവരുടെ ആചാരവും നടപടിയുമെല്ലാം അനുസരിച്ചാണ് അവക്കുവേണ്ടി ഒരു ബിൽ ഇവിടെ പാസ്സാക്കിട്ടുള്ളത്. ഈ ബില്ലിന്റെ അവതാരകൻതന്നെ അംഗങ്ങളുടെ കണക്കും, അവരുടെ അഭിപ്രായത്തിന്റെ കണക്കും, ഇവിടെ കാണിക്കുകയുണ്ടായി. എന്നാൽ അദ്ദേഹത്തിന്റെ തെറ്റിദ്ധാരണകൊണ്ട് അവരുടെ ശരിയായ അഭിപ്രായം ഇന്നതാണെന്ന് ഇവിടെ വ്യക്തമാക്കുവാൻ സാധിച്ചില്ല. അതുകൊണ്ടാണ് ഞാൻ പറയുന്നത് ഇങ്ങിനെയുള്ള കാര്യങ്ങൾ വളരെ ശ്രദ്ധയോടുകൂടി ചെയ്യേണ്ടതാണ് എന്ന്. അതുകൊണ്ട് ഇങ്ങിനെയുള്ള ബിൽകൊണ്ട് സമുദായത്തിന്റെ ആചാരങ്ങളേയും നടപടികളേയും പാടെ വിപാടനം ചെയ്യുന്നപക്ഷം അതു് ക്രിസ്ത്യാനി സമുദായത്തിനു പരക്കെ വലിയ ദോഷമായിരിക്കും. ഇന്ന് ക്രിസ്ത്യാനി സമുദായത്തെ വിശ്വസിച്ചും അവരുടെയിടയിൽ മക്കൾക്കു കിട്ടാവുന്ന അവകാശത്തെ പരിഗണിച്ച് അന്യ സമുദായങ്ങളിൽപ്പെട്ട വാണിജ്യ ലോകത്തിൽ കൂടുതലായ സംഖ്യ ഇവരെ വിശ്വസിച്ചു കൊടുത്തുവരുന്നുണ്ട്. എന്നാൽ ഈ ബിൽ വരുകയാണെങ്കിൽ നിശ്ചയമായും ആ വിശ്വാസത്തെ ഭേദീകരിക്കുവാനിടവരും. കഷ്ടകാലാസ ബിൽകൊണ്ട് ഏതുതരത്തിൽ പണം കിട്ടാവുന്നവരെ നശിപ്പിച്ചുവെം അതേ തരത്തിലുള്ള മനസ്ഥിതിയായിരിക്കും ഈ ബിൽ ക്രിസ്ത്യാനികളുടെ ഇടയിൽ ഉണ്ടാക്കിത്തീർക്കുന്നതു്. ഒസ്യത്തില്ലാതെ മരിക്കുന്നവരുടെ സ്ഥിതിക്കുമാത്രമേ ഇതു് ബാധിക്കുകയുള്ളു എന്നു് പറയുന്നതു് വാസ്തവമാണ്. കാരണവന്മാർ ശരിയായ തരത്തിൽ ആചാരങ്ങളും അടിസ്ഥാനപ്പെടുത്തി ഒസ്യത്തു് എഴുതിവെക്കുമോ എന്നുള്ള കാര്യം പ്രത്യേകം ആലോചിക്കണം. അതായതു് ജീവനോടുകൂടിയിരിക്കുന്ന ഒരു പിതാവു് താൻ ഇഷ്ടപ്പെടുന്ന മക്കൾക്കു കൊടുക്കുന്ന മാർഗം എന്താണെന്നുള്ളതുകൂടി ആലോചിക്കണം. ഈ ബിൽ ഒസ്യത്തില്ലാതെ മരിക്കുന്നവന്റെ അവകാശത്തെപ്പറ്റിയാണ് കണക്കാക്കുന്നതു്. ജീവനോടുകൂടിയിരിക്കുന്ന ഒരു പിതാവു് സ്വന്തം മക്കൾക്കു് സമ്മതം കൊടുക്കുയില്ലെന്നുള്ളതു് അയാൾ എഴുതിവെച്ചിട്ടുള്ള ഒസ്യത്തു പരിശോധിക്കുന്നതായാൽ ബോദ്ധ്യപ്പെടുന്നതാണ്. ഞങ്ങളുടെ ഇതുവരെയുള്ള ആചാരവും മുറയും നടപടിയും നോക്കുമ്പോൾ എല്ലാ മക്കൾക്കും സമാവകാശത്തിനു് അവകാശമില്ല. ഒരു മകളെ വിവാഹംകഴിച്ചു് കൊടുത്തുകഴിഞ്ഞാൽ പിന്നെ പിതാവിന്റെ കുടുംബത്തിലെ പേരിനുതന്നെ അർഹയല്ല. ഒരു സ്ത്രീയെ വിവാഹം കഴിച്ചു കൊടുക്കുവാൻ വേണ്ടിവരുന്ന ബുദ്ധിമുട്ട് ചില്ലറയല്ല. അ

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വനവന്റെ സ്ഥിതിക്കനുസരിച്ച് ആയിരമൊ രണ്ടായിരമൊ ഉറുപ്പിക ഉണ്ടാക്കി വേണം കല്യാണം കഴിച്ചു കൊടുക്കുവാൻ. ഇത ഏല്പാടുകൊണ്ടാണ് മിക്ക കുടുംബങ്ങളും കടംപൊണ്ടു നശിച്ചുപോകുന്നതു്. പുരുഷനും സ്ത്രീക്കും സമവീതം കൊടുക്കുന്നതു് നല്ലതാണെന്നുള്ള അഭിപ്രായം എനിക്കുണ്ടെങ്കിലും ഒരു സ്ത്രീയെ അന്യ കുടുംബത്തിലേക്കു വിവാഹം കഴിച്ചു കൊടുക്കുമ്പോൾ പിതാവിന്റെ കുടുംബത്തെ കടത്തിലാക്കീട്ടാണ് പോകുന്നതു്. കൂടാതെ മക്കളുടെ നാമകരണത്തിന്റെ കാര്യവും പ്രത്യേകം ആലോചിക്കേണ്ടതുണ്ടു്. ആൺകുട്ടിയാണു് ജനിക്കുന്നതെങ്കിൽ അതിനു അപ്പൂപ്പന്റെ പേരാണു് കൊടുക്കുന്നതു്. പിന്നീടുള്ള കുട്ടികൾക്കെല്ലാം ആ കുടുംബത്തിലെ ബാക്കിയുള്ള മുളകളുടെ പേരായിരിക്കും കൊടുക്കുക. അത്രത്തോളം സ്ഥായിയാണു് പുരുഷന്റെ കുടുംബത്തിൽ സ്ത്രീക്കു് ഉണ്ടാകുന്നതു്. ഒരു സ്ത്രീക്കു് പിതാവിന്റെ കുടുംബത്തിലെ അഭ്യുന്നതിയേയൊ അഭിവൃദ്ധിയേയൊ കുറിച്ചു" യാതൊരു വിചാരവുമുണ്ടായിരിക്കയില്ല. നേരെമറിച്ചു് ആ പിതാവു് വല്ല സുഖക്കേടിലൊ പരാധീനപ്പെടുകയാണെങ്കിൽ ആൺമക്കളുടെ കയ്യായിരിക്കും അതിനു തേടുക. മക്കളെല്ലാവരും ഒന്നുപോലെയാണെങ്കിലും പരിതസ്ഥിതികൊണ്ടു് രണ്ടു തരക്കാരായി തീരാതെ നിവൃത്തിയില്ല. ഇതെല്ലാം നല്ലവണ്ണം ആലോചിച്ചാണു് ഇപ്പോൾ തിരുവിതാംകൂറിൽതന്നെ നിലവിലിരിക്കുന്ന നിയമം ഉണ്ടായിട്ടുള്ളതു്. അവിടെയും മൂന്നിലൊരുഭാഗമാണു് സ്ത്രീക്കു് അവകാശം വെച്ചിട്ടുള്ളതു്. എന്നാൽ വീതിക്കുമ്പോൾ അയ്യായിരം ഉറുപ്പികയിൽ കൂടുതൽ ഒരു സ്ത്രീക്കു് ഭാഗിക്കുവാൻ പാടില്ല എന്നും നിയമമുണ്ടു്. അടുത്ത സംസ്ഥാനത്തു കൂടിയും ഇത്രയും പരിമിതമായ ഒരു നിയമമുള്ളപ്പോൾ അതിനെയെല്ലാം ലംഘിച്ചു് പൊടുന്നനവെ ഇവിടെ ഒരു നിയമം കൊണ്ടുവന്നു് അവകാശത്തെപ്പറ്റി നിർബ്ബന്ധിക്കരുതെന്നാണു് എനിക്കു് ഈ അവസരത്തിൽ ഈ സഭയെ ധരിപ്പിക്കുവാനുള്ളതു്.

Mr. A. L. Antony *(Irinjalakkuda):* Sir, I rise to oppose the Bill. If on the general principle that a son and daughter are equal in the eye of law, then, first of all our Hindu law should be amended, for, as per the Hindu law, if a father dies, no woman can have any claim to the property at all except for maintenance, so long as any male member is living. So leaving aside the question of general principle, what we have to consider in a legislation as this, is the communal practice and the custom of the community. Regarding the wishes of our community, I say, it can well be seen from the various documents which the fathers have made with regard to the rights of sons and daughters. You will find no father in any of the documents leaving an equal share to the daughter as to his son.

Mr. A. V. Moothedan *(Chalakkudi):* That is not right. I know of several instances. Take the case of Mrs. Francis.

Mr. A. L. Antony *(Irinjalakkuda):* I do not want to go into individual instances. But I say, in the majority of cases, in 90 per cent of the cases, you will see that the daughter is left only a portion of the son's share in the property. If this is the desire, if this is the intention of our community from time immemorial, it will not be

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without some reason. The relationship between the husband and the wife is not the same in the Christian community as in the other communities. For example, in the Ezhuva community, the husband can remove his wife at any time.

Mr. K. S. Panicker *(Ezhuvas-Mukundapuram):* No.

Mr. A. L. Antony *(Irinjalakkuda):* At least divorce is allowed by their laws and customs. According to our law, and according to our religion, the husband cannot divorce his wife even if she is a debaucherous woman. That is our law. We are bound to follow it. When you make a law for a particular community, you must consider the various customs and the various practices prevailing in that community, and how the law will affect them, apart from general principles. If it is the general principle, several laws of the State should be amended to do away with the old and ancient customs.

Another thing I have to bring to the notice of the House. After the marriage of a girl from the family, it is the husband that is to look after the girl. The family has got several ceremonies to be performed and several expenditures to be met. This is all done and maintained by the father. Supposing the girl is married and has gone away from home, the son is to look after the father. The girl does not and would not spend a single pie for the family. All the expenses are met by the son. Our customs and our practices are different from the Hindu community, and so, are we to legislate a law without reference to those customs and those practices?

I say that even with regard to the suggestion of our leader, Mr. Devassy, to send the bill for circulation, it is not at all necessary. You can know the result of circulation even now. It is evident from the documents made by our fathers and grandfathers, as I said before, from even very early times. Dowry is considered to be a portion of the daughter's share in the family property now. That is the practice prevalent here. Therefore, after the desire is evident from the several documents already existing, there is no necessity for a circulation of the Bill to ascertain the wishes of the community. When the desire is already plain by the various deeds, what is the earthly use in circulating it?

Dr. A. R. Menon *(Minister for Rural Development):* Are you afraid?

Mr. A. L. Antony *(Irinjalakkuda):* I am not afraid. You can send it. The same will be the result. It is only unnecessary to waste so much labour and time for it. If you are not satisfied with my statement that 90 per cent of the fathers consider this unnecessary, you may circulate it.

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There was absolutely no occasion for such a great change being attempted to be made in the customs of the community. There was no great agitation for the introduction of this legislation now. When there is already a system prevalent in the community, unless there is great cry and agitation for its change. I say there is no necessity for bringing forward such a legislation.

Dr. A. R. Menon *(Minister for Rural Development):* Your argument can apply to the Nambudiri Bill also.

Mr. A. L. Antony *(Irinjalakkuda):* You may circulate it. I have no objection. The result will be what I have stated.

Mr. P. V. Raphael *(Joint Secretary to Government):* It is not enough if you simply suppress them.

Mr. M. K. Devassy *(Adur):* If it is sent for circulation, it should be sent only to women of the community.

Mr. A. L. Antony *(Irinjalakkuda):* The general principle that a daughter's share should be equivalent to a son's share cannot be the general law to be applicable to our community. Our law must govern according to our customs and according to the particular nature of the community. I oppose the Bill.

Mr. M. L. Joseph *(Latin Christians-Cranganur):* Mr. President Sir, I am really amused by the anxiety of many of my friends with regard to this Bill. In spite of their arguments and anxiety, I must confess that I am not convinced that the daughter should be treated differently from the son *(Hear, hear).* As far as the father is concerned, I do not think any right-thinking father will any day evince a partiality for his son more than what he may evince towards his daughter.

Mr. V. J. Mathai *(Planters):* You are the only progressive *(Laughter).*

Mr. M. L. Joseph *(Latin Christians-Cranganur):* I may, at the outset, assure my friend Mr. Antony that there is no necessity for any agitation or commotion from a community for bringing in an enactment which one deems proper in the interests of that community. It was only yesterday that we had the example of the Child Marriage Restraint Bill being passed in this Council, even though there was great agitation and commotion from the community which was vitally affected by that Bill. All my friends were vehemently supporting it stating that they were bringing in a very progressive measure for a community which did not want it. Now we should follow the very same principle and support the Bill which is going to affect us. If we could impose upon a minority community a Bill which is doing violence to a custom which existed in

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their community from time immemorial without regard being had to be sentiments of all the members of that community, and if we had courage to pass such a Bill, should we not view this question also with the same amount of courage and with the same amount of audacity, because it is a matter that affects our community? I was one who was opposing the Child Marriage Restraint Bill, because it was against the custom prevailing in that minority community and also considering that it will be a tyranny of the majority imposed upon a minority if that law were to be imposed upon them against their will. But today, this being a question which vitally affects my community, I can boldly say that this is a Bill that should at any cost be supported by any member of any other community. As far as the Child Marriage Restraint Bill was concerned, at least there was not a single member from that community to support it. Now there are at least 3 members from the community which is to be affected by this Bill who are strongly supporting the Bill. That is sufficient reason for the members of the other communities also to support this Bill.

Now, in answer to the view expressed by my Hon'ble Friend, Mr. Devassy, that this Bill will be doing violence to the sentiments of a father, I would submit that if a father holds a sentiment towards his daughter different from the one he holds towards his son, such a father has every means of getting out of this law by executing a will, and I do not think there are many fathers now living who are more interested in their sons than in their daughters. Examples are also not wanting where daughters have proved to be more useful to the fathers than the sons themselves.

With regard to the other point that the prestige of the family will be affected if partition is made between the sons and daughters equally, I would submit that the same will be the result in case a father has got a number of sons, say, for example, if a father has got 9 sons and the *tarawad* property is to be divided among them equally, each share will be equal to 1/9 of the whole family property.

Dr. T. Verghese *(Chief Medical Officer):* In that case, the money remains in the same family.

Mr. M. L. Joseph *(Latin Christians-Cranganur):* Each son will be setting up a different household for himself and his wife and children. It remains in families having the same family name, but does not remain in one family. Therefore, I ask, if daughters are also given equal shares, what is the prestige that the family will loose?

There was another argument that it is the son that has to do all that is necessary for the father and that it is the son who takes

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care of the father, who protects the father. Let me ask whether these platitudes are not equally effective in the case of the family to which the daughter is married. Have not the sons there an equal obligation to support their father and to take care of him? Are they not equally liable to give an equal share to their sisters? Therefore, it comes to this. Money goes out from one family to another and there is every likelihood of money coming into that family from some other family. The son's obligation of looking after the family remains the same.

Mr. T. P. Poulose *(Kanayannur):* Suppose his wife does not get by intestate succession by marriage of the girl during the life time of the father?

Mr. M. L. Joseph *(Latin Christians-Cranganur):* Then the other party must also take care to see that she gets it by a will.

With regard to the argument that ceremonies have to be performed, it is applicable to all families. In every family there are certain ceremonies to be performed. In almost all Christian families they are the same. Whether it is the husband's family or the wife's family, these customary rights and ceremonies will not differ. Therefore, this will not be an argument against the daughter being given an equal share with the son.

Another argument was that according to the Hindu Law the woman has no absolute right to the property. If Hindu Law has been perpetuating a custom, it is because that we do not want to follow that custom that we alienated ourselves from the Hindu fold and became Christians. Therefore, there is no use of our bewailing now that we are not going to get the same advantage and other advantages that our Hindu brethren have got.

Mr. T. V. Subramania Ayyar *(Nemmara):* Come back to the Hindu fold.

Mr. M. L. Joseph *(Latin Christians-Cranganur):* I do not want to go to the Hindu fold, because I am one who supports this Bill for giving equal share to the daughter, unlike a Hindu father who does not allow his daughter a share in the family property whether the property was ancestral or self-acquired. What I say therefore is, Hindu Law is no argument, custom is no argument, sentiment of the father is no argument nor the prestige of the family an argument in support of the view that the daughter should not be given an equal share with the son. If anything can be said against the Bill, I say it is only the selfish motive of these sons to get a greater share of their father's property and to leave their sisters without anything. This, I say, is unbecoming and unmanly for the son. What I suggest

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to be more manly would be to reverse the present order of giving one-third to the daughter and two-thirds to the son. Give the son one-third and the daughter two-thirds *(Laughter)*, because it is the daughter, on account of a certain kind of social system prevailing, who has been suffering a sort of inferiority complex, without having the same economic independence or any other independence which a son can enjoy, with the result her capacity to own money or her capacity to make her own living is limited, whereas the son being a man, with the predominant manliness in him and with the superiority complex which he feels he must be able to eke out his own living rather than depending upon the earnings of a poor old father or grand-father *(Hear, hear)*. Therefore, I say this Bill itself is retrograde. To make it more progressive, I should say, the percentage must be reversed. So long as we do not give recognition to women on a par with men, so long as the woman is not considered as man's equal, so long as the woman is not given liberty to earn her livelihood, so long as some amount of economic independence is not given to her, I would even go to the extent of saying that woman must be allowed a greater share *(Hear, hear)* than men.

Mr. A. B. Salem *(Mattancheri):* Is there any difference between Latin Christians and other Christians in their customs?

Mr. M. L. Joseph *(Latin Christians-Cranganur):* No difference.

The argument that this has been the custom of the community is also of no avail, because custom itself does not give sanctity to law, unless the custom is one that is reasonable in the eye of common sense. This is a custom which on all points has to be criticised as something retrograde, something which only helps to increase more and more the inferior position to which woman has been subjected to. Therefore, I, with all the vehemence at my command, support this Bill and request all members of this Council, especially the members belonging to other communities to give their whole-hearted support to this progressive measure.

Mr. T. V. Subramania Ayyar *(Nemmara):* Sir, I listened with great pleasure to the speech of the Hon'ble Member for Cranganur Latin Christians bristling with progressive ideas, and fully representative of the Progressive Party, and also to the analytical and humourous vein in which the mover of the Bill introduced the measure. In certain communities, so far as the position of man and woman is concerned, man is above woman and in certain others, woman is above man. Owing to circumstances in society, certain culture has been developed in different communities and the position of womanhood and manhood in certain societies are different from some others. The present tendency has

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been for the woman to claim an upper hand in all matters and with regard to inheritance, they claim an equal share in the property. But the question is whether such an attitude is wholly justifiable. It has been observed very often that the fate of a father having female children is a very difficult one. Apart from the question of finding dowry for the female child at the time of marriage, there is a perpetual complaint very often emanating from the bridegroom's side that they are not satisfied with the treatment accorded to them and their family by the father of the bride. What with frequent deliveries of the daughter and the illnesses to which herself and her children are subject to, the demands by the husband and the daughter very often for help, pecuniary and otherwise, the fate of a father of a female child is rather pitiable. When so much of heat is exhibited for the purpose of advocating the cause of advancement of women, I would request you to consider another aspect of the question. I particularly ask the question to my friend Mr. Joseph, do you not find very often a very poor father borrowing or by some other means managing to get some little money to hand over to the bridegroom as dowry for the marriage of his daughter? In families where there is absolutely no property—this is equally so among Brahmins—and only one or two sons, you will find the spectacle of the sons doing cooly work in order to scrap together some money so that a sister may be married. They will even go to the extent of borrowing so that a little money may be given when the sister is given away in marriage. You want equality in everything. The daughter and son must equally divide the property. But then the troubles also must be shared with the sons. Very often the father of the daughter and the brothers have to work hard, borrow, and ruin their future prospects to find dowry for the daughter.

Mr. A. B. Salem *(Mattancheri):* Now, with the passing of the Child Marriage Restraint Bill, you have no necessity to get the daughter married soon.

Mr. T. V. Subramania Ayyar *(Nemmara):* My attitude with regard to that Bill you know perfectly well. Then, why do you add insult to injury?

Dr. A. R. Menon *(Minister for Rural Development):* You could have lived up to your convictions in a serious matter like the Child Marriage Restraint Bill.

Mr. T. V. Subramania Ayyar *(Nemmara):* I was opposing that measure.

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Panel Chairman: Order, order. That is not the Bill now before the House.

Mr. T. V. Subramania Ayyar *(Nemmara):* The point I wish to emphasise is this. There is a fundamental fallacy underlying the argument that the daughter is not treated as well as the son. On the other hand, the daughter is the pet child of the house. The father, the brothers, every one of them, work hard to do everything in their power in order to see that the girl is married. In spite of all the preachings for the emancipation of woman, I ask the Hon'ble House, how many of us are able to say that man and woman are equal? They are not. They will not be. Physically, psychologically, temperamentally and sentimentally they are not equal. In fact woman has been always held, both under Hindu law and under Christian law, to be more or less on a higher pedestal than man. There has never been the case that woman has been treated badly.

Dr. A. R. Menon *(Minister for Rural Development):* But the pedestal is not so high when the economic question comes.

Mr. T. V. Subramania Ayyar *(Nemmara):* In certain cases it is so. In the majority of cases, in spite of all the hardships undergone by the father and the sons, their only anxiety is to find the daughter married and well.

മിസ്റ്റർ പൊപ്പട്ടലാൽ ഗോവർദ്ധനലാലൻ: പെൺകുട്ടികളുണ്ടെങ്കിൽ അവരെ മറ്റു കുടുംബങ്ങളിലേക്ക് വെറുതെ കല്ല്യാണം കഴിച്ചു കൊടുക്കുവാൻ സാധിക്കുമോ?

മിസ്റ്റർ ടി. വി. സുബ്രഹ്മണ്യയ്യർ: ഏതുവിധത്തിലെങ്കിലും പിതാക്കന്മാർ പണമുണ്ടാക്കി പെൺകുട്ടികളെ നിവൃത്തിയുള്ളിടത്തോളം സ്വത്തുള്ള കുടുംബങ്ങളിൽ വിവാഹം കഴിച്ചു കൊടുക്കുവാനെ ആഗ്രഹിക്കയുള്ളൂ.

ഡോക്ടർ എ. ആർ. മേനോൻ: സ്വത്തുള്ളവർക്കാണ് വലിയ വിരോധം.

മിസ്റ്റർ ടി. വി. സുബ്രഹ്മണ്യയ്യർ: സ്വത്തു് അധികം കൂടുവാൻ പാടില്ലെന്നാണ് പറയുന്നതു്. ഒരുദിക്കിൽ സ്വത്തു് അധികം കൂടുന്നതുകൊണ്ടാണ് ലോകത്തിൽ സകല കഴപ്പുങ്ങളും ഉണ്ടാകുന്നതു്.

Now we are on this subject, I say it is a fallacy to argue, it is a mistaken notion and it is a wrong idea that the daughter is not treated properly along with the sons. Therefore, my position is this. This is a measure affecting the Christian community. Many of the Christian members here are opposed to the Bill. If the majority of the Christian members are for accepting the Bill, then we will support it; if not, we will have to oppose it.

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Panel Chairman: Does any other hon'ble member wish to speak on the Bill?

Mr. V. K. Kutty *(Nominated):* Yes, Sir.

Panel Chairman: Then we will adjourn the discussion to the next session.

The House adjourned sine die at 5 p.m.

C. J. MATHEW
Secretary to the Council

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